

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” and Chapter 83, “Medicaid Waiver Services,” Iowa Administrative Code.

The amendments update rules for the Medicaid home- and community-based services (HCBS) intellectual disability waiver to implement legislative directives and corrective actions from the Centers for Medicare and Medicaid Services (CMS) as follows:

- As directed by 2010 Iowa Acts, chapter 1031 (Senate File 2088), section 405, the amendments allow providers of supported community living services to include transportation costs to and from work and day services as reimbursable costs. Currently, these costs must be billed through a separate transportation service. This change may decrease administrative costs and increase the ability of providers to meet members’ transportation needs.

- As directed by 2010 Iowa Acts, chapter 1031, section 404, the amendments change the frequency of psychological evaluations and re-evaluations of a member to determine eligibility for the waiver. For persons who have a diagnosis of moderate, severe or profound mental retardation, only one diagnosis made after the member reaches 18 years of age will be required as a condition of eligibility for waiver services after age 21. For persons with a diagnosis of mild or unspecified mental retardation, the frequency of redeterminations after age 21 will be extended to every six years (from the current five years).

- As directed by 2010 Iowa Acts, chapter 1192 (House File 2526), section 70, the amendments set the criteria and process for implementation of one statewide waiting list to ensure that all applicants have equal access to payment slots. Currently, separate waiting lists are maintained by each entity that funds the nonfederal share of waiver services (by counties for their adult residents and by the state for applicants who do not have a county of legal settlement and for children). Each funding entity determines the need for a waiting list based on the entity’s financial situation. Applicants receive a payment slot on a first-come, first-served basis as financial resources permit.

As part of the recertification of the intellectual disability waiver in 2009, CMS identified that persons applying for the waiver did not have equal access to a payment slot statewide. Applicants from one county may access services immediately, while applicants from another county may be on a waiting list for months or years. The Department agreed to correct this practice as a condition of renewal of the waiver. The amendments provide for a statewide waiting list that is prioritized based on each applicant’s need for waiver services. Criteria are specified for emergency needs and urgent needs. An applicant with an emergency or urgent need would have priority for a payment slot, regardless of where the applicant lived or the financial resources allocated by the county or state.

These amendments also make technical changes to:

- Replace the previous waiver name, “mental retardation waiver” or “MR waiver,” with the current name, “intellectual disability waiver.”

- Remove the term “mental disability equivalent to mental retardation” from the diagnostic eligibility requirements of the intellectual disability waiver.

- Specify that only children in residential-based supported community living placement may have a diagnosis of a “related condition” and define that term.

- Update form names and numbers.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on May 4, 2011, as **ARC 9497B**. Nine people submitted written comments on the Notice of Intended Action. The majority of comments were on the inadequacy of the 39-cent mileage payment and the \$1570 ceiling on costs for transportation and equipment repair. The Department reimburses providers at 39 cents per mile for transportation when provided as part of the supported community living service or any other waiver service that offers transportation. This is also the rate that state employees are reimbursed for

using their personal vehicles for work-related transportation. To increase the per-mile reimbursement rate would add additional cost to the Medicaid program for which no funding is available.

The Department has removed the word “permanently” from and added the phrase “and no alternative housing options are available” to new numbered paragraph 83.61(4)“b”(1)“3” in response to comments. The paragraph now reads as follows: “3. The applicant is living in a homeless shelter and no alternative housing options are available.”

The Council on Human Services adopted these amendments on July 13, 2011.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4; 2010 Iowa Acts, chapter 1031, sections 404 and 405; and 2010 Iowa Acts, chapter 1192, section 70.

These amendments shall become effective on October 1, 2011.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 78, 83] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 9497B**, IAB 5/4/11.

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[For replacement pages for IAC, see IAC Supplement 8/10/11.]